

REMARKS

I. Status of the Claims

Claims 1-5, 7-12 and 14-31 are currently pending in this Application. Claims 1, 12, 23, and 27 are in independent format. Applicant has amended claims 1, 12, 23, and 27 herein.

The present response is intended to be fully responsive to the rejections raised by the Examiner and is believed to place the application in condition for allowance. Further, the Applicants do not concede any of the Examiner's comments not particularly addressed. Favorable reconsideration and allowance of the application is respectfully requested.

II. Interview Summary

On November 4, 2008, Applicant's representative, Eric R. Moran (Reg. No. 50,967), held a telephonic interview with Examiner John T. Kavanaugh to discuss this application. The following is a summary of the interview:

- The Jacko reference was discussed as was currently pending independent claim 1.
- No consensus was reached regarding claim patentability.

Applicant thanks the Examiner for his time and thoughtful consideration of the issues discussed.

III. Responses to Claim Rejections Under Sections 102 and 103

The Examiner rejected claims 1-4, 7-12, 14-17, and 19-29 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,544,430 to Jacko ("Jacko"). The Examiner rejected claims 5 and 18 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Jacko. Applicant respectfully traverses.

In the pending Office Action, the Examiner alleged that, in Jacko, "[t]he laces (28) close the opening of the interchangeable upper and therefore form a shape similar to the upper of the article [of] footwear and therefore inherently align the interchangeable upper portion on an article of footwear," and that "the fixed upper (40) and the interchangeable upper (28) . . . both have eyelets that are aligned with each other and therefore are inherently capable of being laced together." Office Action, Oct. 21, 2008, at 2-3 (emphasis added). Although Applicant respectfully disagrees with the Examiner's characterizations of Jacko, each of Applicant's independent claims now includes recitations directed to the location of the "one or more alignment mechanisms" as being disposed "on a rear portion" of either the interchangeable upper portion and/or the fixed upper portion.

Applicant's Figures 8 and 9, reproduced below, provide example locations for the "one or more alignment mechanisms" (items 114 and 212) being disposed "on a rear portion" of either the interchangeable upper portion and/or the fixed upper portion (in Figure 8, see the left-most alignment mechanisms 114 and in Figure 9, see the upper-most alignment mechanisms 212):

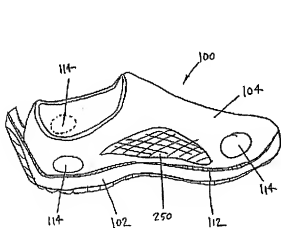


FIG. 8

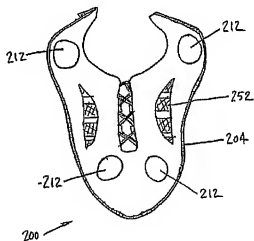


FIG. 9

Applicant respectfully submits that Jacko does not teach or reasonably suggest "one or more alignment mechanisms" being disposed "on a rear portion" of either an interchangeable upper portion and/or a fixed upper portion. In particular, although Applicant respectfully disagrees that either the "laces" or the "eyelets" of Jacko can be "one or more alignment mechanisms" as recited in Applicant's currently pending claims, Applicant respectfully submits that neither the "laces" nor the "eyelets" of Jacko are disposed "on a rear portion" of either an interchangeable upper portion or a fixed upper portion, as recited in Applicant's pending independent claims. Jacko's Figure 1 is reproduced below:

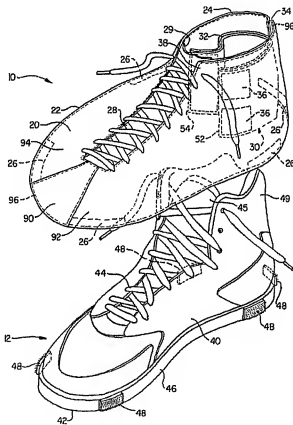


FIG. 1

Applicant therefore respectfully submits that the cited reference fails to disclose Applicant's presently claimed embodiments, and, for at least these reasons, Applicant

respectfully submits that Applicant's pending independent claims 1, 12, 23, and 27 are allowable. In addition, without conceding the Examiner's assertions regarding the dependent claims, Applicant submits that the dependent claims are allowable for at least the reason that they depend from the allowable independent claims.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that all of the pending claims are in condition for allowance. Therefore, Applicant respectfully requests favorable reconsideration and allowance of all of the claims. If the Examiner would like to discuss any aspect of this case, the Examiner is invited to telephone the undersigned at 312-913-0001.

Respectfully submitted,
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Date: 12/17/08

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